



This Week in State Tax (TWIST)

May 5, 2025



Washington State Legislature Passes Sales Tax and B&O Bills; Governor Yet to Sign

The Washington state legislature recently passed several revenue-raising bills to address a looming budget deficit; the measures are before Governor Ferguson, who has about May 20 to sign or veto them. The package is expected to generate \$8.7 billion to address a four-year budget gap projected at \$16 billion. Three measures are particularly significant for businesses operating in Washington, including [Senate Bill 5814](#) expanding the retail sales tax base to include certain services, [House Bill 2081](#) increasing the tax rate for multiple classifications under the business and occupation (B&O) tax, and [Senate Bill 5794](#) repealing several B&O tax preferences.

Senate Bill 5814 amends the definition of “Sale at Retail”, effective October 1, 2025, to include the following specific services (i) Information technology training, technical support, and other services including, but not limited to, network operations assistance, help desk services, network system support, data entry, and data processing services; (ii) Custom website development services, defined as the design, development, and support of websites provided by developers to customers; (iii) Investigation, security services, security monitoring, and armored car services; (iv) Temporary staffing services, except when provided to licensed hospitals; and (v) Live presentations such as lectures, seminars, and courses, either in-person or via the Internet or other telecommunications that allow participants interact in real-time with presenters.

In addition, the bill adds advertising services to the definition of a taxable sale at retail. Advertising services are defined to mean all digital and nondigital services related to creating, preparing, producing, or disseminating advertisements, including certain online marketing strategies, such as online referrals, search engine marketing, and lead generation optimization, campaign planning, monitoring, and evaluation, as well as acquiring advertising space. The definition excludes web hosting as well as services rendered with respect to newspapers, radio, and television broadcasting, and out-of-home advertising (e.g., billboards, point of sale advertising, and signage, but not direct mail).

There is a carve-out for sales between members of an affiliated group of corporations that applies to most of the newly enumerated taxable services described above, with the notable exception of temporary staffing services. Transactions included within the carve-out will not be subject to the sales tax.

Further, SB 5814 adds custom software and the customization of prewritten computer software to the definition of sale at retail (i.e., makes them taxable) along with charges for the right to access such software remotely and to perform data processing, effective October 1, 2025.

Finally, to effectuate the intent of the ‘retail sale’ definition adjustments described above, the bill also eliminates

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certain carve-outs from the definition of digital automated services in current law, thus making such digital automated services taxable. These newly taxable digital automated services include (i) any services that primarily involve the application of human effort by the seller and the human effort originated after the customer requested the service; (ii) live presentations; (iii) data processing; and (iv) advertising services. Those digital automated services involving human effort, advertising, and data processing will remain exempt if the sale occurs between members of an affiliated group. It also adds a new exclusion from the taxation of digital automated services for telehealth services.

House Bill 2081 makes changes in the B&O tax rate for various business classifications as well as the surcharges currently in place for certain taxpayers. Effective October 1, 2025, the bill restructures the rates for the service and other activities category and imposes a rate of 1.75 percent on taxpayers with greater than \$1 million and less than \$5 million in gross income in the prior year unless the taxpayer is a member of an affiliated group with greater than \$5 million in gross income. For qualifying taxpayers as well as members of an affiliated group with greater than \$5 million in gross income, the rate will be 2.1 percent. Further, the additional surcharge imposed on specified financial institutions (as defined) is increased from 1.2 percent to 1.5 percent.

Effective January 1, 2026, the bill introduces a new surcharge for businesses with Washington taxable income exceeding \$250 million annually. The surcharge will be 0.5 percent of the income exceeding \$250 million, provided that manufacturers (and wholesale and retail sales of manufacturers), entities already subject to the specified financial institutions surcharge and the workforce education investment surcharge, and certain other business categories will be exempt from the surcharge.

The workforce education investment surcharge imposed on select advanced computing businesses (as defined) will also be restructured beginning in 2026. The surcharge rate is increased from 1.22 percent to 7.5 percent of taxable income, and the annual limit on the combined liability of an affiliated group will be raised from \$9 million to \$75 million.

In addition, the bill addresses the recent Washington supreme court decision in *Antio* and reinforces that the B&O deduction allowed for certain investment income is applicable only to investment income that it is incidental to the trade or business of the taxpayer, with “incidental” defined as comprising less than 5 percent of the total income of the taxpayer. The bill also includes language providing a statutory deduction of investment income for nonprofit organizations, collective investment vehicles, retirement accounts, and family investment vehicles (as those terms are defined).

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Finally, effective January 1, 2027, the measure increases the B&O rate applicable to a range of classifications, including manufacturing and wholesaling, from 0.484 percent to 0.5 percent; the rate on retailing businesses increases from 0.471 percent to 0.5 percent at that time.

The final bill in the package, SB 5794, eliminates several B&O tax preferences, effective January 1, 2026. They include (i) the preferential rate for title insurance agents; (ii) a preference for credit unions that merge with banks; (iii) an exemption for the sale of precious bullions; (iv) certain credits for contributions by gas and power companies as well as the credit for certain employment in investment services; and (v) interest on loans secured by mortgages or deeds of trust currently available to certain financial institutions. Finally, the bill imposes the B&O tax on the rental of space at self-service storage facilities under the service and other activity rate of 1.5 or 1.75 percent, effective April 1, 2026.

For additional questions regarding these changes, please contact [Michele Baisler](#), [Alex Low](#), or [Jayson Miller](#).

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